IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1866 OF 2005

Kamlesh S.Mishra. ... Petitioner

Versus.

The State of Maharashtra. ... Respondents.

Shri Chaurasia i/by Shri A.M.Saraogi for the Petitioner.

Ms.M.H.Mhatre, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 9th August, 2005.

P.C.:

1. The challenge in this writ petition is to the show cause notice under section 111 of the Code of Criminal Procedure, 1973. The show cause notice is dated 15th February 2005 which was received by the Petitioner on 23rd February 2005. The writ petition is filed on 30th July 2005 i.e. five months after service of the show cause notice. In the petition there is no explanation for delay.

2. Normally this Court is slow to interfere with the show cause notice in a petition under Article 227 of the Constitution of India. In view of the unexplained delay in filing the petition, the same cannot be entertained. However, the petitioner is free to file reply to the show cause and contest the matter. After reply is filed, the concerned Officer will proceed with the matter in accordance with the provisions of section 116

of the said Code of 1973. The concerned authority will keep in mind that section 116 contemplates that the enquiry shall be made, as nearly as may be practicable, in the manner prescribed for conducting the trial and recording evidence in summons cases.

3. The petition is dismissed. It will be open for the Petitioner to file reply to the show cause notice within a period of two weeks from today. For a period of two weeks from today the Respondent No.(b) Assistant Commissioner of Police, "G" Division, Mumbai will not proceed further with the enquiry.

4. After a period of two weeks from today, the concerned authority will be free to proceed with the enquiry in the light of the observations made in this order.

5. All contentions of the parties on merits are kept open.

6. The parties and the concerned authority to act on an authenticated copy of this order.

Judge.